

ENROLLED HOUSE  
BILL NO. 2300

By: Tibbs, McClain, Lindley,  
Toure, Wells, Liotta, Roan,  
Walker, Kirby, Dank and  
Greenwood of the House

and

Cain and Lawler of the  
Senate

An Act relating to poor persons and public health and safety; creating the Oklahoma Consumer-Directed Personal Assistance and Support Services (Oklahoma CD-PASS) Act; providing short title; stating purposes; stating legislative findings; requiring establishment of certain demonstration program upon specified approval; stating purpose of demonstration program; specifying types of services to be included; requiring guidelines, eligibility criteria, standards and evaluation techniques; specifying demonstration program requirements; allowing certain consultation, contracting, and expansion under specified circumstances with regard to the demonstration program; requiring promulgation of necessary rules; amending 63 O.S. 2001, Section 1-1950.5, as amended by Section 1, Chapter 71, O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-1950.5), which relates to caregivers; deleting obsolete references; expanding definition; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 198.11 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 and 2 of this act shall be known and may be cited as the "Oklahoma Consumer-Directed Personal Assistance and Support Services (Oklahoma CD-PASS) Act".

B. The purposes of the Oklahoma Consumer-Directed Personal Assistance and Support Services Act are to:

1. Provide assistance, on a voluntary basis, to families with a Medicaid-eligible member who requires long-term support services, or to provide assistance to Medicaid-eligible individuals who require long-term support services, so that such persons may remain in their family residence or in their own home; and

2. Afford, on a voluntary basis, frail elderly individuals and adults with disabilities who are Medicaid-eligible and who need basic assistance with mobility, self-care and health maintenance, the ability to have maximum control over the selection of persons working on their behalf and over the manner in which personal assistance services are to be provided to them.

C. The Oklahoma Legislature finds that:

1. Providing services to individuals needing in-home and community-based care, as well as providing assistance to their family members, should be supported;

2. Giving recipients of in-home and community-based services and their family members a choice in the selection of services needed and providers to be utilized enhances a sense of dignity and autonomy for those individuals receiving care; and

3. Providing consumers and their families with choice and control over their lives is a goal that should be supported.

D. The Oklahoma Legislature further recognizes the importance of providing options and alternatives to persons receiving in-home and community-based services, and as such, supports demonstration programs that result in positive outcomes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 198.11a of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Aging Services Division within the Department of Human Services, upon the approval of the Centers for Medicare and Medicaid Services, shall establish the Oklahoma Consumer-Directed Personal Assistance and Support Services (Oklahoma CD-PASS) Demonstration Program. The purpose of the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program shall be to enhance the range of choices and options for Medicaid-eligible consumers, on a voluntary basis, who require long-term care support services, and to assist families with a Medicaid-eligible member who requires long-term care support services to arrange and purchase their own personal care and related services.

B. The Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program includes, but is not limited to, the following types of services:

1. a. Basic services, such as getting a recipient in and out of a bed or in or out of a wheelchair or motorized chair, or both,
- b. Assisting with certain bodily functions, such as bathing and personal hygiene, dressing and grooming, and feeding including preparation and cleanup;
2. Ancillary services such as shopping and cleaning;
3. Companion-type services such as transportation, letter writing and reading; and

4. Any other service requested by the eligible recipient needing care and services.

C. 1. In developing the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program, the Aging Services Division shall develop guidelines, eligibility criteria, program performance standards, and techniques to evaluate the outcomes of the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program.

2. The Demonstration Program, at a minimum, shall have the following requirements:

- a. the cost in the aggregate of the services offered through the CD-PASS Program care plan shall be equal to or less than the average cost of the Advantage Waiver Program service or personal care plan as applicable,
- b. the baseline level of consumer satisfaction shall be measured by an independent third party prior to initiation of the Demonstration Program,
- c. the scope of services offered within the CD-PASS Program shall comply with current state statutes and rules, and federal regulations, and
- d. program evaluation which shall include an indication of whether:
  - (1) consumer satisfaction for CD-PASS Program participants is higher than or equal to consumer satisfaction for Advantage Waiver Program clients, as measured by an independent third party, and
  - (2) the percentage of delivered hours of the CD-PASS Program client care plan are greater than or equal to the percentage of delivered hours of the Advantage Waiver Program service or personal care plan.

D. The Aging Services Division may:

1. Consult with various federal, state and local entities in order to fulfill the purposes of the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program;

2. Contract with entities in fulfilling the purposes of the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program; and

3. Upon the approval of the Centers for Medicare and Medicaid Services and the availability of funds, expand the Oklahoma Consumer-Directed Personal Assistance and Support Services Demonstration Program statewide if the evaluation provided for in subsection C of this section demonstrates consumer satisfaction with and cost effectiveness in the delivery of the Program.

E. The Commission for Human Services and the Oklahoma Health Care Authority Board shall promulgate any rules necessary to implement the provisions of the Oklahoma Consumer-Directed Personal Assistance and Support Services Act.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-1950.5, as amended by Section 1, Chapter 71, O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-1950.5), is amended to read as follows:

Section 1-1950.5 A. 1. It shall be unlawful for a caregiver to solicit or accept anything of value greater than One Dollar (\$1.00) from any person in the caregiver's care; provided, however, nothing in this section shall be construed as prohibiting a group of individuals, including family members and friends of residents, from establishing an employee recognition program consisting of voluntary, anonymous and confidential donations to care providers; provided further, no care provider shall be included in the group making decisions regarding the disbursement. Such donations may be disbursed pursuant to procedures established by the group.

2. As used in this section, "caregiver" means a person who is:

a. the paid agent or employee of:

~~a.~~

(1) an assisted living center,

~~b.~~

(2) a nursing facility, specialized facility, or residential care home as such terms are defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title,

~~c.~~

(3) an adult day care center as such term is defined in Section 1-872 of ~~Title 63 of the Oklahoma Statutes~~ this title,

~~d.~~

(4) a home health or home care agency, or

~~e.~~

(5) the Department of Human Services, in its capacity as an operator of any hospital or health care institution, or as a contractor with providers under the Personal Care Services Program, ~~but~~ or

b. a personal care attendant hired by a consumer under the Oklahoma Consumer-Directed Personal Assistance and Support Services (Oklahoma CD-PASS) Program.

"Caregiver" does not include a guardian, limited guardian, or conservator as such terms are defined in the Oklahoma Guardianship and Conservatorship Act.

B. Any person who violates the provisions of paragraph 1 of subsection A of this section, upon conviction, shall be guilty of a misdemeanor.

SECTION 4. This act shall become effective July 1, 2004.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 4th day of May, 2004.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 8th day of April, 2004.

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Presiding Officer of the Senate